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GOVERNOR OF HAWAII



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**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

HISTORIC PRESERVATION DIVISION  
KAKUHIHEWA BUILDING, ROOM 555  
601 KAMOKILA BOULEVARD  
KAPOLEI, HAWAII 96707

**MINUTES  
MAUI/LANA'I ISLANDS BURIAL COUNCIL MEETING**

**DATE:** Wednesday, March 23, 2005  
**TIME:** 9:00 a.m.  
**PLACE:** COUNTY OF MAUI  
PLANNING DEPARTMENT  
KALANA PAKU'I BUILDING, 1<sup>ST</sup> FLOOR  
250 S. HIGH STREET  
WAILUKU, HAWAII 96793

**ATTENDANCE:**

**Members:** Charles Maxwell, Chair  
Dana Naone Hall, Vice-Chair  
Leslie Kuloloio  
Michael Minn  
William Waiohu  
Mei Lee Wong  
William Frampton

**Absent:** Clifford Nae'ole (excused)  
Glenn Richardson (excused)

**Staff:** Sunny Greer, Administrative Assistant  
Nathan Napoka, Branch Chief  
Melissa Kirkendall, Maui Archaeologist

**Guest:** Tanya Lee-Greig  
Chris Monahan  
Joe Noland  
Erik Fredericksen  
Dawn Chang

Michael Dega  
Nroma Lei Noland  
Lisa Rotunno-Hazuka  
David Ward

**I. OPENING REMARKS**

MLIBC Chair Charles Maxwell called the meeting to order at 9:13 a.m.

Maxwell reminded members and guests to sign in and called on Kuloloio to give the *pule wehe*.

## **II. APPROVAL OF MEETING MINUTES**

**March 3, 2004**

**March 25, 2004**

**April 29, 2004**

**May 27, 2004**

**June 24, 2004**

**July 28, 2004**

**October 28, 2004**

**December 15, 2004**

Maxwell said because of the lengthiness of the minutes, he would like commissioners to submit to the chair, any amendments or additions to the minutes within a two week period at the end of the month.

Hall interjects for clarification and said "council members have the opportunity to submit any proposed revisions to you (Maxwell) within a two week period and you will then approve transmitting any appropriate revisions, clarifications and or amendments to SHPD" and suggested to "have all revisions put in email format so it may be directly inputted into the minutes."

**Hall moved and Kuloloio second "that the Maui/Lana'i Islands Burial Council approves the minutes of March 3, 2004, March 25, 2004, April 29, 2004, May 27, 2004, June 24, 2004, July 28, 2004, August 25, 2004, October 28, 2004, December 15, 2004 and that these minutes for 2004 shall be approved and subject to the receipt of any amendments, clarifications or revisions submitted to the chair of the council who will then approve sending any clarifications, amendments or revisions on to the division for inclusion in the next minutes."**

Kuloloio mentioned that in both months of September and November 2004 either no meeting was scheduled but Hall clarified to Kuloloio that the September minutes has already been approved and there was no meeting scheduled in November. Kuloloio then withdrew his second and Hall withdrew her motion.

**Hall restated her motion, moved and Kuloloio second "that incorporated everything said earlier with the addition of the January 27, 2005 minutes."**

**VOTE: ALL IN FAVOR. The motion carried unanimously.**

## **III. BUSINESS**

### **A. BURIAL TREATMENT PLAN FOR SITE 50-50-14-5182, KEAUHOU HONUA'ULA, AHUPUA'A, ISLAND OF MAUI; TMK: 2-1-7:008 LOT A-1-B**

**Determination/Recommendations:** Determination on request to relocate site 50-50-14-5182; recommendations on burial treatment plan.

Tanya Lee-Greig introduced herself as the archaeologist who prepared the burial treatment plan for Mr. and Mrs. Joseph Noland. Lee-Greig said "the burial we were seeking determination on was initially discovered during inventory survey, subsurface testing of the sand dune fronting the *makai* portion of the parcel. A burial was encountered between 13-14 meters in the trench length and testing was immediately terminated." Lee-Greig is "requesting relocation of burial within the same trench to about 12 feet of the southern boundary of the lot, to accommodate construction of a

permanent marker as well as to keep the burial out of an area with potentially high foot traffic.”

Hall clarified that the burial treatment plan request for relocation is the result of being almost entirely displaced during inventory survey from using a backhoe. Lee-Greig concurred and said she believes the burial was discovered during a single scoop of the backhoe bucket. Hall said if the burial had been found intact or most of it was intact then there would have been an effort to preserve it in place. Lee-Greig agreed.

Lee-Greig submitted to the council the approval of the inventory survey report. Lee-Greig commented on how helpful the revisions were in clarifying important highlights and information. Hall said “on page 1 in two places *Keauhou* needs a “u” to be correctly spelled in the first paragraph last line and the second line of the project area description.” Hall suggested to Lee-Greig in the second paragraph in the project area background, at the very end of that paragraph to add the sentence “this burial find was designated SIHP 50-50-14-5182.”

Hall said to turn to page 12 on the proposed burial treatment and thanked Lee-Greig for mentioning that 90 percent of the individual was recovered through screening. Hall said under Proposed Burial Treatment (PBT) in the first paragraph where the discussion on where the burial is to be reentered, Hall asked for a figure that would show the reinterment location. Hall suggested that before the last sentence in the paragraph following where it says “after 90 centimeters,” Lee-Greig could make a reference that says “see figure 9.” Lee-Greig said figure 9 identifies the location of the reinterpreted site as well as the permanent buffers.

(Kirkendall arrives at 9:20 a.m.)

Hall questions the third paragraph under PBT where Lee-Greig states “an archaeologist will be on site during placement and compaction of the fill and backfill. There should be no heavy equipment operation using a backhoe or front-end loader on any portion of the sand dune unless monitored by an onsite archaeologist.” Lee-Greig said that basically the landowners are committed to preserving the existing dune. Lee-Greig says there is no reason to have a front-end loader or backhoe on the sand dune and only minor equipment may be needed for the backfill. Hall suggested that Lee-Greig mention in the third paragraph that the archaeologist shall ensure there will be no adverse effects to the sand dune.

(Wong enters at 9:29 a.m.)

Hall said “in the short-term preservation section you (Lee-Greig) should change all words that say graves or gravesites to burial sites.” On page 13 Hall said item 3 on short-term preservation measures the sixth line down where it refers to the concrete cap over the reinterpreted area will be inscribed with the burial site number. Hall said to include the burial site and the number so it reads 50-50-14-5182. Hall asked for clarification on the second sentence in item 6 that referred to the “temporary marker”. Lee-Greig explained that the temporary marker is the rebars for the concrete that will

outline the area where the platform will go. Lee-Greig was unsure as to whether the rebar will be cut or incorporated into the platform.

Kuloloio said he thinks the rebar markings were for designated corners of the burial spot. He suggested using the rebar for reinforcement during the making of the platform but said the rebar should be removed when the platform has been made. Kuloloio said he thought the most important thing was to have a marking with the burial site number on the capping of the platform as well as the relocation points by survey so that it could be put into Lee-Greig's BTP and serve as documents in state and county records.

Lee-Greig said the rebar will mark a 3 X 3 foot buffer with the permanent platform on the surface measuring 4 X 4 and it makes sense to take the rebar out. Kuloloio said "after the completion of the platform, the family should take a photo of the capping and have it as part of their genealogy records that pertains to the land, house and area so it may be viewed as a full document of preservation." Kuloloio expressed how learning about the process of the buffer zones is important because "should the family pass the land on, new families will know that there is a buffer not allowing any infrastructure such as pipelines, irrigations or sewage coming near that buffer."

Hall re-questioned item 6 as to whether the structure will incorporate mortar or drywall? Lee-Greig answered with drywall as being the more likely choice to use for construction. Hall said, "a provision should be mentioned under the long-term preservation measures that the platform will be maintained and reconstructed periodically as necessary."

Maxwell commented on page 12 site 50-50-14-5182 sentence 6 add "*no moepu*" (funerary objects) after "no artifacts."

Hall said on page 17 long-term preservation measures item 1 if it would be agreeable with the property owners to have the word "permanent" deleted and change to "in perpetuity" to coincide with the intention of the preservation. Lee-Greig agreed on behalf of the owners who were present. Hall suggested changing the phrase in item 4 from "access shall be permitted to cultural and lineal descendants," to "access shall be permitted to recognized cultural and lineal descendants," to indicate a process in identifying cultural and lineal descendants accessing the site as a measure to prevent possible future problems. Under recordation item 5, Hall suggested deleting gravesite and changing the document to read Burial Treatment and Preservation Plan.

Minn asked if the integrity of the dune would be incorporated with any or all construction on the dune. Lee-Greig clarified and said "what's being proposed is two feet of compacted fill on the property for the purpose of constructing concrete slabs for the foundation of the house. The two feet fill will be away from the toe of the dune and only go up in a CMU wall about 2 feet high.

Kuloloio thanked Lee-Greig for her thoughtful BTP. Hall thanked landowners for their willingness in taking measures to protect the burial site.

**Hall moved and Minn second "that the Maui/Lana'i Island Burial Council approves the request to relocate site 50-50-14-5182 as proposed in a burial treatment and preservation plan presented to the council."**

**VOTE: ALL IN FAVOR. The motion carried unanimously.**

Maxwell noted Dr. Kirkendall's presence who mentioned Glenn Richardson's absence was due to car trouble on his way to the ferry. Maxwell noted Wong's presence. Hall asked Lee-Greig to submit to her the corrections and replacement pages that will then be forwarded to SHPD.

(Wai'ohu enters at 9:44 a.m.)

**Hall moved and Minn second "that revisions requested by the Maui/Lana'i Island Burial Council be made and submitted to Hall for review and Hall will then communicate with SHPD that the revisions have been appropriately incorporated and the final BTPP can be recorded and then the copies can be sent to SHPD and the council."**

Lee-Greig for clarification purpose asked if the council was asking for three fully revised copies of the BTP with the appropriate replacement pages so that two copies would go to SHPD, one on Maui and one on Oahu in Kapolei and the remaining copy to go to the landowners.

**VOTE: ALL IN FAVOR. The motion carried unanimously.**

**B. DRAFT BURIAL TREATMENT PLAN FOR SITES 50-50-17-5627 & 5628, IN HA'O'U AHUPUA'A, HANA DISRICT, ISLAND OF MAUI; TMK: 1-5-04:005**  
**Information/Recommendations:** Discussion of draft burial treatment plan.

Chris Monahan of SCS Archaeology identified himself. He was asked by the landowners Thomas and Patricia Foley to conduct an archaeological inventory survey on a single parcel that is a little less than 1.5 acres in Hana. Before going out to the site, Monahan contacted Mike Minn by phone that put him (Monahan) in touch with the Kupau family who had knowledge of the parcel. Monahan met with two members of the Kupau family a gentlemen name Francis and another man whom were able to give him information on the site. On the parcel two paved mounds were identified and a small rock formation that was said by the Kupau family to be historic burial sites and in consultation with Kirkendall we decided not to test these sites. Monahan said "we are requesting permanent in place preservation with permanent buffer zones for two possible burial sites. The landowners have been cooperating and agreed to the buffer zones. A professional surveyor came and gave mapping points for the whole parcel and for the possible burial points as well, which is illustrated on page 15, figure 5." Monahan said it was great to have these professional surveyors out at the site because the boundaries are unclear and the surveyors helped to map out the points of the boundaries and possible burial sites for record keeping.

Maxwell asked what is the footage around the permanent buffer zones sites to which Monahan responded, there will be a circle with a 40 foot diameter and 20 foot sides.

Hall asked if the state owned parcel has a TMK to which Monahan clarified the strip of land is basically known as Cobble Beach that drops right off of the Pali. Cobble Beach is very difficult to access. Monahan discussed State ownership of the shoreline and cliff face to the top of the bank.

Maxwell asked how far from the embankment is the burial due to possible wave action displacement to which Monahan responded roughly 200 feet. Monahan also mentioned that the land gently slopes down roughly 400 feet to the shorefront.

Hall requested that a photograph be included in the BTP to show the relative distance from the shoreline looking back at the respective burial sites and from the burial sites looking back at the shoreline.

Wai'ohu asked who owned the land to which Monahan responded the name is Foley. Wai'ohu asked if Foley is a haole from the mainland that purchased the land when Monahan was doing the inventory survey to which to answer was yes. Kuloloio asked Monahan if he had a figure that showed the exact current property boundary to which Monahan said yes on page 5 which shows the results of the land surveyors that came out. Kuloloio asked if the adjoining properties both *mauka* and *makai* have homes to which Monahan explained parcel or lot 10 is also undeveloped land that has some historic walls and possible burial sites towards the west side of the parcel. Monahan said the parcels on the undeveloped northeast side have a series of walls that look to be a possible homestead.

Kuloloio for clarity asked if *mauka* of the property is mostly shrubby, vegetation and undeveloped to which Monahan responded that is correct. Kuloloio asked Monahan if there are more observations of burials to which Monahan said another archaeological firm identified three burials sites to the west, which is within parcel number 10. Kuloloio asked for the record that it would be good to show some observation was done on activities on this historical property and to have it inputted in the plan. Monahan said on pages 11 and 13 he has an extensive explanation of the observation parcel 10 that was done. Frampton asked Kuloloio to look at page 12 which is a picture of a map for clarity.

Kuloloio said he believes that the property owner's TMK should indicate that...

(Tape 1 Side B)

"each segment should belong to the whole general area, so down the line it will make it easier for burial council to see the project area is bigger than what the lot size is about." Hall said Kuloloio brings up an interesting point that the overall issue of sites being based on property lines is always an issue. Hall said that the wall along Hana highway is not only important for its informational content but also because it is characteristic of a particular area. Hall continued to say that there should be some criterion beyond Deeds that should be applied to features like the historic wall on Hana highway.

Kirkendall said she believes that that wall in Hana is considered part of the highway and it does have its own site number, which has been issued over and over again for segments of that wall.

Hall said the affirmation for it being important for multiple criteria and not...Kirkendall interjects and says she believes there has been allowance for people to enter through driveways but otherwise the intent is to maintain it as is. Hall said, "one of the things Kirkendall, you might want to consider in your reviews of walls of this nature, is that when they're allowed to be breached for driveway purposes, that there be a definitive maximum opening allowed for the driveway so that a property owner with a 100 feet along side the highway doesn't decide that 55 feet is going to be for the driveway, because it is completely discretionary at that point to allow a breach, but not a maximum breach." Hall continued to say "what we (council) are responsible for is burial sites; however one of the criterion looked at when deciding if a site should be preserved in place or relocated, is whether or not a site has been found in an area within a context of historic sites. When a parcel contains historic sites but is allowed through an inventory review process to eliminate sites that were found to be no longer significant because their information content has been adequately satisfied in terms of recordation," Hall said, "this presents a bit of a problem for a future council because, say that the property on either side has gone through the process of allowance for sites to be destroyed that are no longer significant because inadequate information has been obtained." Hall continues to say that you kind of wipe out the properties historic context for the burial sites that could prove problematic in the future to preserve the burial site in place.

Napoka said, "a long linear property, a 40 foot right of way is historic and on the national register and now incrementally is being chipped away by impact. So at what point and time does the integrity and context of that property lose its historical significance and like Kuloloio was saying the context is interrelated and is it after 50 percent of the property is destroyed that it's deemed no longer significant?" Napoka continued to say, that "furthermore if you continue to lose part of this property, it's more than just data recovery, you're actually losing a big long component of this community." Napoka also mentioned that a wall feature should not only be looked at as an archaeological feature, but also as an architectural and cultural feature as well.

Monahan said he understands what the council is saying but wanted to state for the record that he submitted an 80-90 page archaeological inventory report describing all the surrounding features of the parcel and how these features relate to them and a full accounting of the context so that people know and not to seem as if he skipped the context of these features. Hall asked Monahan for a copy of the inventory survey report.

Dega states, "the contextual studies are interesting because there's a fundamental dichotomy between how CRM works and contextual studies which are the larger portions. For example the Y complex up in Hana was continuous all the way down *makai* side from the *mauka* side. And because CRM is so TMK oriented, we have to rely on archaeologist building upon other archaeological works in the area to piece it together. And that's a problem because archaeological sites are continuous and they aren't bounded by TMKs."

Napoka responded to Dega by saying, "we are also looking at this as an architectural engineering structure that would supersede if not for archaeological context of it, but

under the Department of Interior guidelines, it would be another section of determining significance.” Hall said she hopes the 6E review process evolves, especially in an area like Hana where there is general recognition of the cultural historic landscape, which is so critical for the character of that region.

Kirkendall agrees with Dega, Monahan and Hall and said, “this particular project poses a bit of a problem simply because in addition to the continuous habitation you have across the parcel, you also have these burials, as well and the inventory survey on the adjacent parcel that has not been accepted and we have requested revisions that have not yet been submitted. So the problem becomes in maintaining the integrity as Mike was saying, because unfortunately the county permits system are linked to the TMK, so there needs to be a larger way to address this without penalizing a property owner of a TMK.” Hall said, “we are almost asking in some sense, if we could really get a good synthesis of the region that takes into account all the different variations and qualities of surveys and properties and although this is unlikely, it is worth mentioning because it is definitely something that can be done.”

Kirkendall said “there must be some county restrictions regarding egress and ingress on to Hana highway that would necessitate a minimum and a maximum width of breach and we could certainly specify when reviewing applications that the minimum be breached and if that is not possible, than to ensure the maximum is not breached.” Kirkendall suggested to the council that exploration of the rules and restrictions of egress and ingress should take place.

Frampton agrees with Kirkendall and said there are requirements regarding access on to state highways. Hall said that the requirements differ because in certain areas you’re dealing with the county and in others with the state. Kirkendall said it would be interesting to see how they differ and to take that as a baseline to establish a minimum and a maximum breach.

Dega said in difference to archaeology this is one of the gaps between CRM and academic archaeologist, because academics are able to study a whole *ahupua’a*, where most of the time we’re doing piece meal studies except at places like DHHL lands where we actually get the opportunity to do large scale settlement patterns.

Kuloloio responded to Dega by saying, “we all have to become a partnership when we come across times like this where certain cases lights up a new idea or a new way to approach the future whether it be archaeology or what ever, we need archaeology to work out something for us Hawaiians to take this step forward, especially in Kihei for example where I continue to get frustrated and disturbed because the TMKs are previously adjoining but disturbed. To prevent this, we need to jump forward and we have to make a new effort with archaeology, whether it be the state or the burial council to say wow Melissa, I’d like to make a motion. If it’s possible, I’d like a map to be created that would give us a front view of all lands in Hana. This we’ll help us with record keeping although at the present time we are not ready for record keeping because this is not yet policy. What I’m trying to say is that from what I heard today, 6E tells me there are a lot of sites that need to be part of Zone A. Basically we need



someone to take all the archaeological reports that are in records, put them together to find out where the gaps are.”

Dega said “you’re absolutely right and you have the data at SHPD with the GIS data base. I suggest you start with the lower projects and have it done by TMK, but the big map will be by *ahupua’a*, and then color code it by where the projects were and what resources were found there.”

Kuloloio said, “perhaps in twenty years I going tell you what I seen is homes being built in the country and going be twenty years like going be what Kihei is going through, disturbed, disturbed, disturbed. The significant of drop, why, they’ve taken every feature and make us Hawaiians, us councils, fight among the features rather than protect among the whole place.” Dega said we should get a grant for this.

Minn said, “the particular parcel and bay we are talking about is the breadbasket right now, it’s the icebox right now, for the people living there in that *ahupua’a*. The people who live there, use the place heavily and the first place I dove in Hana was right there and I had to get permission from the people who lived there, the Hawaiian families, because we were in their *ahupua’a*.” In response, Monahan said, “when I was out on the parcel I told the people that were buying it, that they’re going to have to expect to have people walking through their yard because, these people have been walking through the yard a long time and there has to be a public way.”

Hall said, “PASH rights are supposed to be considered during the permitting process and since this property is in an SMA area a Special Management Area within the coastal zone and because there is a significant amount of coastal resources at stake, unless someone notifies the Planning Department when they review this project for an exemption or minor permit, whether it needs a minor permit or a major permit, is likely going to apply for an exemption because it’s a single family residence. Even during the exemption review process there needs to be a consideration of PASH rights like what Mike (Minn) was saying that is when it’s supposed to be considered and if its not then you have these future problems where people are going to complain about what happened to their ability to get to the shoreline.”

Monahan said, “the Planning Department currently won’t approve an SMA exemption unless SHPD has signed off.” Hall said, “SHPD isn’t structured to look at PASH rights and what we have now is a gap, a missing link, you know we are not just talking about isolated elements. First we talked about the architectural cultural historic features in an area, then we talked about how to people are related to those features which is literally talking about how those people are related to the land, whether it is farming or fishing. And it’s so easy for these elements to become separated and then no longer considered and that’s how you lose culture, history, architectural elements and the vital connection people have to an area. Regardless of who actually owns the fee title, there are certain property rights that are inherent and people must respect PASH rights.”

Minn said there is an old school about a quarter mile away *mauka* that was a big settlement around the turn of the century. 1920 they moved that old school building which is now part of the old Hana school. So they move the whole building to Hana.

Maxwell asked if there are any plans for the construction of a home or if Monahan knew of any plans to which Monahan answered yes, “they are planning to build a single family residence basically in the middle of the parcel.” Maxwell asked “if these people (the landowners) know that they have a responsibility when buying a lot like this, and when I say responsibility I mean the haole’s that buy here feel that private property is private property, but it’s not in Hawai’i.” Monahan said, “they (the landowners) learned a lot within the past 6 months because I don’t think they knew about this before and when I first came to the parcel I had people coming from across the street talking about the illegal take over of 1893 and they don’t even recognize the people who sold it to these people. I told these people, the Kupau family, that they needed to be showing up at meetings and talk to these folks if they wanted to do something about it.”

Someone said I think the Kupau family owns property down there to which Monahan responded by saying I believe the Kupau family had claimed decendancy or relationship to the whole *ahupua’a*. Maxwell asked if Monahan researched the LCA to which Monahan said that there are some LCA’s not for the parcel itself but for next door and pieces here and there.

Kuloloio asked Hall if we (council) are approving a BTP. Hall said no we are not approving yet, we are just looking over a draft plan. Kuloloio said, “this draft plan doesn’t designate this small place that get historical sites” and asked what comes after approval, the house to which someone said yes. Kuloloio continued to say he’s trying to get his footsteps straight and asked if this BTP is to preserve the burial on this lot. Someone said yes, Kuloloio continued and said, “when this BTP is finished, I can shove it because I don’t want to see this come back and now if one house is going be put on this property, what does this BTP do? Give them the green light?” Minn said it will set forth the criteria and conditions on how someone can come in and build there. Kuloloio said, “yeah but all the other applicants that come inside, come with the awareness that yes I want a house but I didn’t know about the burial there. So I have to comply with the burial presence, but this one here basically is saying that the house owner knows about the burial but still wants to put a house there. So in a sense the site gets a lower significance and the house becomes the priority.”

Frampton said he thinks in this case it looks like they went out to identify the resources to know what you have so you can take that knowledge and better place structures versus placing a structure here not knowing what’s going on and having guys come in and telling them move your house or shift your driveway. Someone said it seems like we should set this up so that we feel confident that it’s protected for single family homes. At the same time the PP should be well drafted and tight so it gives a clear indication about what they can and can’t do around that area.

Maxwell asked, “was any type of test pits were done between these walls or open areas for any burials, because these features might be seen but what about the unknown burials in this area, have you checked?” Monahan said yes there are test units excavated on page 15, figure 5. Maxwell said instead of reading, for Monahan to tell him about the test pits in the area and how far apart they are. Monahan said, “we excavated in the central part of the parcel because that was where we were verbally

told that they wanted to build their residence. We put some holes about 9 pits there to see what the sediments were like, to make sure burials would not be disturbed, but only one pit in the middle was done.” Maxwell said, “test pits are important because from experience, if two burials are found then that usually indicates there are more burials.” Hall said at this point there are possible unconfirmed burials. Hall said, “look at what we have to deal with in sand dune areas, where even when we find burials through inventory survey like HRT where we started with one burial identified during inventory survey and now we are up to around 15 burials. So in terms of the adequate level of testing, that is something Kirkendall is responsible for.”

Someone said, “it looks like they went out and did up to 9 test units where they identified the place where they want to go. We know that southwest of the property there are possible burials.” Maxwell said his intent will soon have to be really critical, meaning if you want to build your house in a historic place than you are going to have to do a lot of pit tests to ensure burials are not present. Maxwell asked if there are plans to take down the walls to which Monahan said there is really nothing left of the wall on the ground surface anyway and there is already lots of vegetation in the area, but did mention that there are remnants that showed the wall was there.

Kuloloio said the functioning of proof is there and when people say it’s just remnants, it’s like we are going right back to the same thing, there’s no worth or significance. Monahan said the question he was asked was how high are the walls to which he answered about an inch.

Hall said she understands what Kuloloio is saying but she doesn’t think Monahan is denigrating what is there, he’s just describing what the remnants amount to. Maxwell wanted to finish his question and asked Monahan “where you see further on where you have features with two arrows, it gets more profound the stones, does that mean it gets higher? Or is everything in green about an inch above the ground or is there more of a foundation left as we get closer towards the possible burials.” Monahan said, “you know it’s all essentially the same, you can barely see it, its been removed. If you go out to the site and start *mauka* you will see some remnants here and there but it definitely gets less as you go towards the *makai*.” Wai’ohu asked if the area was a *heiau* to which Monahan said if there is one it’s not impressive. Wai’ohu said you shouldn’t say impressive because it then puts *heiaus* into classes. Monahan said he was just trying to convey that if there is in fact a *heiau*, there is very little to no evidence of it.

Hall said, “this is a debate you (Monahan) may often come in contact with because although some archaeologists like to classify certain structures as exhibiting *heiau* architectural features, whether it be in method of construction or size, that’s not generally recognized by the Hawaiian community as anything definitive and that’s the point that we are getting at.”

Continuing on, Hall directed Monahan to page 6 historical background pre-contact era line 5, the sentence that begins with the ubiquity of *heiaus* signifies the regions relative importance as a population center in traditional times. She objects from a cultural perspective to the use of the word ubiquity because it sounds like such a loaded statement, she would rather use the word number or numerous in place of the word

ubiquity. Hall said on page 9 under previous archaeology at the top of page the sentence that reads the Hana and Kipahulu districts are rich in archaeological resources with all manner of site types and occurrences recorded. Hall requested that a more specific word be used in place of occurrence because it is unclear as to what is meant. Page 10 fourth paragraph down from the top of the page in the last line correct the spelling of era. On page 11 under immediate vicinity of the parcel, in the second paragraph because the word ephemeral indicates the appearance and disappearance in sort of a seasonal way Hall suggested it would be better if that word (ephemeral) was deleted entirely. Hall asked if the site is visible from the surface and if a photograph can be taken. Monahan said yes and he has many photos in the inventory survey and will put some in the draft of the BTP. Hall said on page 14 under the second site 5628, the first paragraph a reference to 3 Java Plum trees is mentioned and the figure attached, figure 7 on page 17 shows 2 Java Plum trees and a tropical almond, Hall suggested that Monahan make the proper adjustments so the text will be consistent with the figures and it would be good to have Francis's last name (Kupau) included. Hall requested that both meters and feet be used throughout the report for better understanding distances and dimensions.

Minn asked Monahan if it was possible for the figure 4 on page 12 which is the adjacent parcel number 10 to be matched up side by side without disrupting the scale too much. Monahan said that it is actually not possible to match up the two because the TMKs were mapped incorrectly. Monahan said he tried to fix the disparities between parcels, but was just unable to do so because it was mapped out incorrectly.

Hall said, "on page 20, I guess you decided to measure the buffer from a center point in the middle of the platform. In terms of marking the buffer area over time we are then getting into circles around the site and I (Hall) prefer a buffer that pulls off of four corners of the site because it's easier in terms of measuring and it gives a consistent distance from all four corners." Hall explained that a circle buffer area results in variable buffer distances. Kirkendall is concerned with circular boundaries because at some point in time there will be a BTP for the adjoining adjacent parcel and what happens on this parcel will set the precedent for how the other parcel will be treated. Kirkendall anticipated the property owner to be more willing to preserve a more contiguous area that would include both burials instead of two discrete preservation areas because ultimately that would extend onto the adjacent parcel and requested that Monahan explore this with the property owners. Kirkendall continued to say that the preservation area may have to be inclusive of that whole area. Hall said that makes way more sense. Monahan asked if you (council) are talking about one big rectangle essentially to which they (council) said yes. Kuloloio said it would be nice to find out who were the last surveyors of this property. Hall said the surveyor was out there and his name is Randall Sherman.

Maxwell asked Kirkendall, "what is appropriately correct in testing areas, because where this house is, my preference is that the whole area be tested for burials." Kirkendall asked if Maxwell meant within the habitation complex to which he said yes where they are going to put the house and yard. Kirkendall said, "given the interpretation of the feature if they were not testing for burials, they were probably testing the structure." Maxwell said there is a high probability that there are more

unknown burials within the house and yard complex. Hall said she doesn't know if it is a high probability, but there is a *possibility* that there are unknown burials. Maxwell said this information will help him feel better when voting to approve or disapprove this to which Hall said, "well you have vote to approve this based on the identified burial sites which is the only reason this is coming to us for a determination. With respect to the possibility that there may be other burials on the property, that is something that's supposed to be mitigated through archaeological monitoring during ground disturbing activities."

Maxwell said he is not in favor of this and asked Napoka if he understood where he is coming from. Maxwell continued to say "why should we always with a site this prominent, used by Hawaiians for hundreds of years say all but we shouldn't make sure that there aren't more possible burials." Napoka asked Maxwell if he is asking for a more intensive archaeological testing to which he answered yes. Hall asked Monahan if the archaeological inventory survey has been approved to which he answered yes. Hall said absence of evidence that there are other burials on the property....

(Tape 2 Side A)

Someone asked if the possible burial sites are above ground or are they all subsurface possible burials? Hall said that these two sites are being treated as possible burial sites because they had been identified by the family living across the road and the reason that the site on the adjoining property is considered a burial site is because they were also identified by the families living in that immediate area.

Frampton said, "because of the nature in how they were identified, being above ground, doesn't mean they're aren't any other burials and if they did monitoring and nothing was found but the report comes back and there actually is something in the area then"...Hall interjects and said that then it becomes an inadvertent burial and SHPD makes a determination on it in consultation with the council. Hall said, "not to argue with you (Maxwell) but there are places in Waihe'e with the sand dunes where we could make the same argument and have them dig up the whole thing, but that would be untenable for the landowners in terms of the cost and so some of this is striking a balance between a reasonable amount of inventory testing and the rest of it is archaeological monitoring." Hall continued to say "it's not perfect but this is where we are and again in this situation we are here because there has been identification of possible burial sites and in order not to disturb these sites a decision was made not to excavate to actually confirm human skeletal remains." Hall said to use this as a platform for the rest of the property to be more intensively surveyed but I'm not sure if we can do this.

Maxwell said he understands what is being said but he still is going to vote against it. Hall asked to reserve your judgment.

Minn said the county just bought Muole'a Point which is less than a couple miles away to the south and through their partial archaeological surveys, just "walk overs", that is a more significant site other than Pi'ilani Heiau. So Muole'a... Hall interjects to say Muole'a has been known for a long time as being important. Minn continued to say that along that same highway (Pi'ilani) to the north, there have been burials found

underneath the walls on the side of the roads just so that you know, because the road even though it has been marked for 100 years, when they built it, they didn't follow the same map.

Hall said, (to Monahan) "on page 20 first paragraph at the top to put a period after the word signage and delete the rest of the sentence. In the third paragraph you weren't clear but that's okay because you're going to revise that whole issue with the buffer zone and buffer distances. I guess what we need to know, going back to the driveway issue is, if it's 30 feet from a corner boundary stake and given the fact that we are trying to create a preservation buffer that incorporates both possible sites, maybe you ought to identify which corner is being talked about, which directional corner."

Hall said if you look at the bullet points, the third and fourth bullet points are contradictory because the third bullet mentions no ground disturbing activities and the fourth bullet talks about landscaping which is pretty hard to do if you're not going to have ground disturbing activities, so resolve that contradiction.

Hall said on page 21 the third bullet point you state "all trees and shrubs in the immediate area, but we are not talking about the immediate area, so to clarify it should be brush within and in because it seems to talk about an area outside the preservation area." Hall asked Monahan about his bullet point which speaks about the binding agreement for the land and asked if he had spoken with the property owners as to what form the agreement will be in, for instance if it's going to be an easement that is recorded in the Bureau of Conveyances which tends to be the case for a single family home or it could be an In Situ burial agreement which incorporates short and long term preservation measures. Monahan said he doesn't know what form of binding agreement will be taken to which Hall suggested that Monahan speak to the property owners and decide on which form they will execute, whether it's an easement or In Situ.

**C. IMPLEMENTATION OF INTERIM AND LONG-TERM PRESERVATION MEASURES ON BURIAL PRESERVATION PLAN FOR SITE 4142, HONOLUA, LAHAINA DISTRICT, ISLAND OF MAUI; TMK: 4-2-004:031**

**Information/Recommendations:** Status update on implementation of Interim and long-term preservation measures, including access to Site 4142 by lineal and cultural descendants.

Hall asked if Rory was present to which someone answered no Rory is in Hana. Hall asked if Rory knew about the meeting but was told probably not, Hall continued to say that there probably was some confusion when he showed up last month not realizing there was no burial council meeting in February and being a week ahead of our regular scheduled time. We will put him on next month's agenda.

**D. NEW SANDHILLS RESIDENTIAL PROJECT, WAILUKU AHUPUA'A WAILUKU DISTRICT, ISLAND OF MAUI; TMK 3-8-007: PORTION OF 121.**

**Information/Recommendations:** Discussion of inadvertent burial discoveries and proposed mitigation for inadvertent burial discoveries.

Lisa Rotunno-Hazuka archaeologist for New Sandhills LLC identified herself and said she is on the agenda to speak about 5 lots and buffers for burials that will be preserved and one lot that will have a reinterpret on this residential lot. Hazuka was asked by Minn if there were any new finds to which she said yes, "we do have one new find which is in this area here where there's a sewer easement on find spot 92, it backs up onto Old Sandhill Subdivision." Hazuka explained that "the discovery of the burial is the result of digging out a sewer line approximately 10 feet deep with 5 feet of fill when we noticed human remains in our backfill pile and we stopped work and went into the trench to look for more evidence of burials, but we couldn't find any. Also it is 5 feet of fill and 5 feet of original in the trench, and there is an existing sewer line that will be capped and rerouted another way. As inspection and testing was done, skeletal remains for three individuals were found in back dirt piles and all if not most of the remains appear to be from the fill. At first we thought we missed this burial because we were standing right there and there are remains in the back dirt pile, but after looking at the old sewer lines and some of the breaks and that there is three people represented there, we concluded that there was no way we would have missed that. We think the burials were disturbed in the past and somehow pushed up into the fill areas and we just didn't catch it. This is the latest find and its find spot 92 and it has a minimum of three individuals that are being curated at the lab."

Hazuka said, "basically the long-term measure on each one is fairly the same, so what I'll do to keep this brief is highlight the points that are different for each lot. The first lot I wanted to talk about is lot 43 which has two burials within the parcel and it was like an 8 or 10 foot cut that the council allowed for those partial in situ burials to be removed and relocated to the back of the lot. There is a diagram on the third page and we are proposing to do a reinterpret on the back lot of three individuals that aren't in complete assemblage but three individuals. The buffers are approximately 10 X 10 foot radius around the platform, the burial platform has been enlarged to a 4 X 5 X 2-3 courses high so that it can accommodate the assemblage of three individuals. The buffer zone will be demarcated by native ground cover and around the platform is a 10 foot radius. There is 8 feet on one side and so the basic element of all these preservation plans are to have a rounded river rock platform, a buffer zone outside of the platform demarcated by some type of native ground cover and the site will be recorded by and with a metes and bounds description." Hazuka asked for clarification on what is an "as built" to which was explained by Frampton, it is when you have what you propose to construct, then what was actually constructed and your proposal and actual construction are supposed to match up.

Hazuka continued to explain that she was thinking of a way to plot the burials on a construction plan that would later be turned into the county at the end and it was mentioned by Frampton that yes the burials could be put on a map as an "as built".

Hall said to look at lot 43 first and mentioned to Hazuka "that when you're talking about where the reinterpret location will be just add the TMK in that section of the report because the area isn't going to be known as HRT Commercial Property forever. The TMK will help to track the area even if the name changes." Hall asked Hazuka if she is only giving two property lines that are relevant to which Hazuka answered yes. Hall

said if that's the case then you ought to indicate the distances on your figures so people understand where 20 feet is and where 8 feet is.

Kuloloio said, "where the burial is located in green, it looks like there is a finished grade, if that grade is going to be on the slope on the back of the lot, then I would recommend you put the depth of burials on the slope real deep to protect against run off and erosion. The burials should be at least 10 feet deep." The depth of the burial brought about concerns and it was ultimately decided to just move the reinterpret location to a flat area between lot 43 and 44 where the platform will continue with a 4 X 5 X 1.5 feet high measurements.

Hazuka said currently there is no signage proposed on these platforms. Hall said you should have the burial site and number to which Maxwell agreed. Hazuka said the depth of the platform will be 4 feet so that the *iwi* could be placed in. Hazuka said there will be a concrete capping and read item 4 under surface platform, "rounded river rock platform will be constructed over the reinterred human skeletal remains. Prior to the construction of this platform a reinterpret pit measuring 4 X 4 X 4 feet deep will be excavated by the archaeologist. The bundle of human skeletal remains will be situated at the bottom of the pit and covered with a layer of sand approximately 2 feet thick. The sand layer will then be capped with a layer of concrete approximately 4 inches thick. The site number will be inscribed onto the cap and platform constructed." Hall interjects and requested that the word burial site also be put along with the number. Hazuka continued reading, "the platform will measure 4 X 5 X 2-3 courses high" when Hall said put in quotation marks the burial site but Hazuka said usually we put SIHP and the number on the cap depending on how big the cap is. Hall said that's fine and made a suggestion to Hazuka who repeated aloud what Hall had said which was, "the cap will be inscribed with open quotation, burial site and SIHP number."

Hazuka continued reading, "the platform will measure 4 X 5 X 2-3 courses high and will be constructed of rounded river rock cobbles secured together with an interior core of concrete. The interior core will give the platform a dry stacked appearance. This site will have a metes and bounds description recorded with the Bureau of Conveyances." Hazuka said she will find out if the language associated with recordation is in fact the right language for the construction plan. Hall asked if this burial area is subject to a CC&R. Hazuka said no the landowner will take care of it. Maxwell said it will be in the deed as an encumbrance to which Hazuka said yes this will be attached to the deed as a CC&R. Hall said we should clarify this and Hazuka asked if the BPP should be listed as an encumbrance. Frampton said under preservation plan for lot 43 to list it on the deed as an encumbrance. Hall said also under item 4 surface platforms, the last sentence should be deleted and after that sentence there should be a sentence that says "the platform shall be maintained by the landowner and repaired as necessary." Hazuka said she should have had a section on maintenance and will create one in her revisions.

Kuloloio said, "as we read this plans here and if you was the home owner and then we asking where we'd like the reinterpret situated on lot 43, does this also require the banks or embankments on your property? Doesn't the homeowner have a right to put a fence up?" Hazuka answers yes and Kuloloio then wanted to know where can the



landowner put that fence up to which was explained by Hazuka that the fence can be placed anywhere on the property but it was envisioned that HRT is probably going to put up a privacy wall which would be on HRT's property. Hazuka further explained that the platform was moved farther away from HRT's property so that it would be unaffected by what they did.

Hazuka said basically we kind of wanted each lot to have the same platform, dimensions and scheme of native ground covering where the buffer is delineated by native vegetation and said she will revise her work. Hall wanted revisions made and said under landscaping where it says shall be planted with native ground cover or low growing shrubs to make sure the shrubs are shallow rooted and not like Naupakas. Hall said she wanted the last paragraph changed to read "to ensure the perpetual protection of this burial feature, periodic sites inspections by SHPD may be conducted to verify that all preservation measures are in place and that all burial features are being adequately protected." Hall addressed Kirkendall and she felt it was important to start adding this language that SHPD may conduct periodic visits because otherwise you never know what the status and condition of the sites are.

Moving to Lot 61, Hazuka said, "when we came before the council, the landowner was asking that plot 79 be removed because it was in the center of the lot and there was going to be a tough time building a house around it, but the council asked them (landowners) to keep the burial in place which has been done. The only problem with that position is that it's going to have some smaller buffers. It's probably going to have a courtyard right in front of the house." Hazuka said, "on lot 61 we had proposed a platform which is 4 X 3 X 2 but the buffers that were proposed was about 3 feet which is basically the platform with just a little 1 foot surrounding landscape." The issue is building around the burial.

Hall said something similar happened in a Waihe'e subdivision where it was necessary to build around the burial and asked Kirkendall if that was correct. Kirkendall said yes that was the plan but the lady never built and Kirkendall thought she might have sold the property. Hazuka only proposed a small buffer because she didn't know what type of house a person would build. Hall asked Hazuka to go over the buffer zones again. Hazuka said, "the buffer zone for this area will be approximately 1 foot around the burial platform which is a 4 X 3, so it has a couple feet on one side and a foot on the other." Frampton said root barriers might be a good idea. Hazuka said she'll mention that under landscaping where root barriers will be placed around the perimeter of platforms. It was explained that root barriers are made of plastic and (inaudible) and it is important to have root barriers in place to protect the burial from being disturbed by other vegetation roots possibly growing into the burial.

Hazuka said the depth of this particular burial is near finish grade or near the surface although she did not have the exact information at the present time. Hazuka said if the burial is near the surface that it may have to be built higher and although what I submitted is just a draft, this is important because should and when someone purchases the land in the future, the people have to know where the buffers and boundaries are.

Kuloloio said the important thing with all the burials is that we work it out and make a lip over on the capping as needed so that it doesn't drip. Hazuka mention that she neglected to add in the language about SHPD and periodic inspections and will make the revision as well as adding a section on signage and maintenance. Hazuka said the most important thing with this lot is to understand the buffer that is being proposed. Hall said to try a buffer zone of 2 feet.

Hazuka moved on and started with the location of Lot 63. She said, "this is the lot we had a lot of discussion on because 78 consist of two people, one which is a partial remain and the other one was displaced. So this was 78A and 78B. The buffer zone is 10 feet along the road side, and 10 feet along Lot 54 side, and 5 feet on the driveway side and 5 feet on the house side." Hall said to indicate the distances on all sides of the figure and to make the necessary adjustments to the buffer zones. Hazuka said she will change the illustration so that the buffer zone is visible and reiterated the measurements of each side of the buffer zone.

(Tape 2 Side B)

Hazuka continued and said, "Lot 63 will have the same platform of 4 X 3 X 2-3 courses high, as well as signage, a plaque and a section on maintenance and the provision for SHPD." Hazuka asked for future purposes if she needed to come back to burial council meetings for each one of her burial preservation plans to which the answer was yes.

Hazuka moved to the location of Lot 16 and said, "this one needs to be discussed because when we found the spot on lot 16, it was originally identified as a scatter and the remains were found down alongside the road. We continued monitoring and we did find more human remains up on the slope which is the back boundary with Sandhills. To date, we have found at least 6 individuals in a pit at the top of Lot 16 and of the 6 individuals, 2 appear to be in situ or partial in situ and it looks like somebody dug a pit and put 2 adult remains, 1 child and 1 infant into the pit together." It was asked what kind of matrix was used to cover that sand to which Hazuka responded with there was a large disturbance of sand over the remains.

Hall said she saw this pit and mentioned, "the remains are well imbedded in the sand but this was not a bundle burial, it did look as if some remains were gathered from other areas and placed all together within the pit." Hazuka said, "because this pit is on such a steep slope, a retaining wall was suggested and we were going to have the remains reinterred behind the retaining wall, but now there is not going to be a retaining wall because they don't want to do them. But we do have 7 individuals plus 2 possible in situ people in this area" and it was suggested by Hall that some sort of CMU U shaped wall needs to be built to retain these individuals in place.

Maxwell asked if there were other possible burials next to the 7 individuals, to which Hazuka said we tested the area pretty good. Hazuka said, "wing walls would be built as well as the U shaped walls which would go into the slope, the top would be flat with a concrete cap and do the same type of burial site number inscription. The 2 to 1 slope would be restored over this crypt and no platform would be possible because of the

slope. The crypt would be stabilized by using 3-5 courses of CMU blocks because that would become the footing.”

Kuloloio for clarification asked Hazuka where the burials were and after receiving his answer said he didn’t think the U shaped wall would remain in place without the proper footing and this issue needs some attention. It was basically agreed and said by both Hazuka and Frampton that a similar structural design would be used, a design used by civil engineers but for us we would probably want our wall to flare outwards. Kuloloio felt the type of footing is important and asked that reinforced steel be used.

Hazuka was asked about Lot 19, she said, “that was from spot 69 and the same thing was going to be done and there was a scatter behind the wall, but because this was such a small scatter before the 2-1 is done, we could cut the face and put the burials in, do a cap and then put the 2-1 over it and I think we have the jeopardy here of having to build a crypt.”

(Wong leaves at 11:46 a.m.)

Hall asked Hazuka if Lot 19 had any in situ remains to which the answer was no. After deliberation Hall suggested the scatter proposed for reinterment on Lot 19 be placed with the remains of Lot 16 which made better sense, this was agreed on by everyone.

Hazuka moved to Lot 52 identified the location and said, “there was a scatter which consisted of a few bones of a child and a partial in situ burial on the lot line between 52 and 51. The scatter was collected and the in situ was left in place and we are proposing to take the scattered remain from find spot 73 and the reinterpret from near 75 and have them placed together with a platform built for them. The buffer for the area was tricky because this is a golf course lot and ultimately we are asking for a small buffer which is 5 feet because I don’t know what the situation on building a house will be.” It was mentioned that when remains are placed together, that they be separated, to which Hazuka said they always do.

Hazuka reiterated and said, “the buffers we are looking for is about 5 or 6 feet around the burial and because it’s on the lot line for the adjoining property, its either going to be another 6 or 10 feet depending on what type of home they build. It will have a 4 X 3 X 2 course high platform with a 5 foot buffer around the platform and all these grades are finished grades.”

Hall said, one of the problems Hazuka is you have got to put your distances on and do not make a radius. So put distances on all your figures and show a squared off or rectangular area and show this to us before we go any further.” Kuloloio mentioned it will be interesting to see after when the building plans come in all the laterals on the irrigation, sewage, plumbing and meters on how the electrical is going to run. Hall said we would feel a lot better if we could see the revised figures.

Hazuka said she has only one more burial to talk about located in Lot 45, “which is a partial in situ burial that was previously and recently disturbed. There are human skeletal remains within a 4 foot excavation pit and a cranium was found at the top so

after going down 4 feet we found 4 ribs that were articulated, 4-5 vertebrae and portions of arm were anatomically correct but they were not inside of the pit and they were not completely articulated.” Hazuka also mentioned that they probably caused some of the disturbance to the burial but it was very minimal because work was hardly done in the particular area. Hazuka said for this burial, the client is asking for relocation to another place based on the position of the driveway. Kuloloio said to relocate the driveway but Frampton said he doesn’t know if that would be possible because of the distance to the intersection. Hazuka explained about the entry feature gate and said she did ask the client to have the driveway relocated, but because of the way the entry gate swings open that relocating the gate just wasn’t plausible. There was a general agreement by the council to move the gate and to deny the client’s request of removal or relocation of the burial. Frampton had a comment about moving the gate and said that “in doing so, this may relate to the location of the existing intersection and there may be county code or requirement that says you have to be a certain distance away from the intersection.”

Kuloloio said in regard to the in situ partial, what he sees is that you can move the gate but not the electrical lines that would facilitate this mandate. Hazuka said she will ask the client to move the gate because she hadn’t thought of that and possibly moving the driveway 6-8 inches but there still would be no way to put a platform because if they did force the platform into the area, it would be too long and skinny and it wouldn’t look nice. Kuloloio asked how big is the land to which Hazuka answered is about an 8000 square foot lot. Maxwell expressed how he wanted Hazuka and council to explore all angles of this burial.

**E. INADVERTENT BURIAL DISCOVERIES AT HRT ST. FRANCIS DIAYSIS FACILITY, WAILUKU DISTRICT, ISLAND OF MAUI; TMK 3-8-007:140 AND PORTION OF 142**

**Information/Recommendations:** Discussion of inadvertent burial discoveries and proposed mitigation for inadvertent burial discoveries.

Hazuka expressed that she will make this very quick and explained the location of St. Francis. She said, “Kaiser is TMK 142, but there is a triangular piece which is TMK 140 and that is considered the St. Francis parcel.” Maxwell asked if this burial was the same one that was found earlier in the back of Kaiser when Kaiser was being built. Hazuka said she wasn’t sure for certain, but it more likely isn’t the same burial.

Hazuka said, “there is a find spot 91 which is along the backside close to Maui Memorial Hospital and to date we have not found an in situ component of this person, but there are quite a few remains although we haven’t collected any cranium.” Hazuka said she thinks this person was previously disturbed from an unknown cause but recent grading disturbed it also. She said we also have another individual that was definitely disturbed by us which is find spot 93 and this person was completely displaced because of the bulldozing that was done, however we did collect just about every bone to have about a 99% recovery of the individual. Hazuka was asked if she knew where the burial originated, to which she said no, she thinks the burial was just in the general vicinity. Proposed relocation will be discussed at a future point in time.

**F. PU'UKOLI'I CEMETERY, HANKA'O'O AHUPUA'A, LAHAINA DISTRICT, MAUI; TMK 4-4-2: PORTION OF 4**

**Information/Recommendations:** Discussion of proposed preservation plan for Pu'ukoli'i Cemetery.

William Frampton said he wanted to notify the council that he is involved with this through his business partner David Ward who was working on a consultant basis for this company and he would reclude himself from any voting.

Erik Fredericksen of Xamanek Researches identified himself and said, "for informational purposes the preservation plan for Pioneer Farm Subdivision Phase I is part of the Ka'anapali 20/20 project where an inventory survey was conducted in 2001-2002. This site location is *mauka* of Ka'anapali and Ward will hand out an informational document on where everything is." Fredericksen said this is the first phase of the Ka'anapali 20/20 development project and it is community based so a lot of community input has been taken into consideration. Fredericksen said, "the overall Ka'anapali is about 4000 acres with over 1700 acres in conservation use and will remain in conservation use, but in this first section, there were 17 sites that were located. Pu'ukoli'i Cemetery which is a plantation area cemetery is actually identified in another inventory survey done in the early 90's for a proposed little Lahaina bypass." Fredericksen continued to say "in an aerial photograph of the cemetery found on the second sheet handed out is lot 9 and that is a portion of the cemetery which is actually a little turn around spot for vehicles." Fredericksen said the cemetery itself is on a promontory with two drainage features going down each side of the figure.

Fredericksen said, "on the third figure everything in green marks the drainage features and blue is the actual size of the cemetery itself. There are 60 lots proposed with one lot being for the cemetery and obviously won't be for sale and there are about 6 acres. A blow up on the last page shows a more detailed version of the cemetery lot. There are 17 sites on the overall preservation plan, one of which is Pu'ukoli'i Cemetery that is site number 2893 which was issued in the early 90's when it was recorded. The earliest grave recorded according to a study done on the cemeteries of Maui is in 1928 and only 6 graves were recorded, but there are closer to probably 40 graves there." Fredericksen said some of the graves don't have any markings, some have tombstones, some have wooden crosses and some have been destroyed in a fire that happened some time ago. Fredericksen and Ward created a map of the cemetery since a good one didn't exist. Fredericksen said, "there are no records on the cemetery per say but most people tend to believe it was first used in the late 1800's or early 1900's. Going back to the aerial photograph on the second page, the green is where there are coffee trees which are still there today."

Wai'ohu asked if there was a Portuguese camp since there is a Portuguese office, to which Fredericksen answered yes, there are Portuguese associated with what was known as Pu'ukoli'i camp, but also mentioned there are more than one ethic group present. Fredericksen said along with Waine'e Camp these two were among the largest around. Fredericksen expressed again that there are individuals of various ethnicities within the cemetery and also confirmed that there is a connection with some graves to the present generation. Fredericksen continued to say that some of the graves are

maintained by lineal descendants but others aren't, and proposed to the council if they could look at the large map that has all the green and then the blue. Fredericksen explained that the green area is to have proposed cultural easement and an enclosure or two and the blue area which is the cemetery is lot 9 but there is an area *mauka* of the cemetery that extends out a 100 feet, which is the buffer area that is beyond the actual lot boundary of the cemetery. Fredericksen mentioned that no above ground gravesites were found near the lot boundary line. Maxwell asked what does the blue line signify to which Fredericksen answered is access and also mentioned on both sides of that blue line is lot 7 & 8 which will both be sold.

Kuloloio asked what is the approximate size of each lot to which Fredericksen answered no smaller than 4 acres but no bigger than 6. Maxwell asked if there are any CC&R's that's in this agreement in this subdivision to which Fredericksen answered those are still being developed. Maxwell asked who will maintain the burials since construction will be done all around it to which Fredericksen answered maintenance would be done by the overall organization that is going to retain direction and control over the sites...(this question is finished by Ward) David Ward of Frampton and Ward identified himself and said, "the maintenance of the cemetery itself will be paid for by the association which will be the members of this community, the developer of Ka'anapali 20/20 thinks it's important they continue to monitor or ensure the implementation of the maintenance of this cemetery and also the cultural easement pointed out by Fredericksen." Ward continued to say this will give the developer of Ka'anapali 20/20 continued rights to access the property to ensure that these obligations are met.

Maxwell asked if some type of agreement could be worked out with lineal descendants like Pattie Nishiyama to have them work on some type of contractual basis in a joint ownership of some form to maintain the cemetery because Maxwell didn't like the idea of having family in a gravesite when you don't even own the plot and wanted the CC&R to reflect some kind of union between the development and the people that would take care of their families. Frampton said he is open this idea and would assume the developer would be open to this idea as well but technically he is not certain how that would work. Maxwell said, "well as a burial council member I would think you would look towards something in that type of organization to be working and before any approval, I would approve that." Maxwell continued to say how he liked the preservation area and the buffer zones and just wanted to express his concern. Napoka said in the past on Oahu what would happen is the cemetery families would get together and file form 501 (c) (3) which would be the write-off for the developer, but in this case you are talking about the actual shifting of the property to an entity. However another issue is whether or not there are enough families willing to address long-term preservation and the upkeep of maintenance.

Frampton said the way the cemetery is maintained today is by having the shrubs cut low so that it doesn't collectively gather and overrun the area and of course the cemetery is accessible to the public. Frampton continued to say that the area has had a lot of community input and if an association could be essentially formed by family members of individuals in the gravesite and have this association lead towards maintenance, then this would be a rather nice solution for all parties.

Kuloloio said he wanted to know who are the players, who are these Ka'anapali people that have been to project and where was Pu'ukoli'i Village in 1950 and from what he understands is that the village was all plantation people and all that village was, was sugar before the arrival of pineapples. Kuloloio felt that a lot of information needed to be obtained from Pioneer Mill and Ka'anapali's cultural people/department because we are dealing with lands that are now in the acres, not subdivisions but acres and this land is now going to be turned and switched from sugar, to pineapple and now into the biggest real estate subdivision he will ever see on Maui. Kuloloio said what he's looking at is that when you have burials here and cultural easements, he thinks it's a front personally because all these cultural easements are located in gullies and gullies are so good to use as a front to make the most important use of 4 acre lots.

(Tape 3, Side A)

Kuloloio said his problem with this is, because the site has been used for agriculture, there needs to be a different strategy to divert flood control in the future away from the historical site and together we need to see where the water will flow.

Frampton said the comment about water diversion is a good point but this particular subdivision is actually coffee now and will stay there with coffee and the only place you can put a house is where there are little yellow squares. Ward wanted to reiterate a little about what Frampton had said and expressed that "the area will be maintained in coffee, there is a master lease on this entire property and it's required that the coffee be maintained, there are 1 acre sites within the 5 acres that will be developed for homes, with the issue of drainage control it's important to note that there are drainage diversion brims on the property that will be maintained with easements." Ward continued to say that it's very important to keep the drainage patterns where they are now so that things don't change, historically all the water in this area has moved into these gulches because that's the natural flow pattern and the increase in water flow will be held in retention basins. Wai'ohu mentioned the Portuguese camp that used to exist in the area and about possible gravesites.

Maxwell said, "that during the end process you should look into lineal descendants to form what Napoka mentioned, a nonprofit thing where the whole subdivision and CRC would fund the maintenance of this." Kuloloio asked the council if they remembered during the Waihe'e Oceanfronts where there were old camps and when the river flooded burials we later found in the cane field? Council acknowledged and Kuloloio continued to say how he thought this parcel could end up in a similar situation and he wanted future flood plans in place.

Fredericksen said an inventory survey was done for informational purposes only. Maxwell addressed Fredericksen who acknowledged he knows what revision and suggestions need to be made and the council determined Frederickson would not have to return for any approvals on this matter. However, Frampton suggested that Fredericksen explore in depth some of the suggestions offered by the council and to return at a future meeting to give an update. Fredericksen said that he thought maintenance of the cemetery was the primary concern and however the joint ownership thing washes out, we'll just wait and see. Maxwell said well you know Pattie Nishiyama

isn't here and went on to reiterate his feelings about having lineal descendants care for the cemetery.

**G. SANDWICH ISLES COMMUNICATIONS, INC. FIBER OPTIC CABLE INSTALLATION PROJECT, ISLAND OF MAUI**

**Information/Recommendations:** Status update on fiber optic cable installation project.

Dawn Chang on behalf of Sandwich Isles Communications introduced herself and said there's really nothing for approval, what she really wanted to do is discuss a protocol for plowing method, she asked council if they remembered when a plowing demonstration back in November was done, to which Hall, Kuloloio and Wai'ohu attended. Chang said this is new technology which is attached behind a backhoe as a plowing tool which cuts through the soil and lays the cable simultaneously. It is a very efficient tool; a setback is that it is like boring, where you can't see beneath the surface. Chang wants the council to feel comfortable with this technology and said it's likely to be used a lot here on Maui in the near future. Maxwell asked to hear some of council's feelings from those who attended the demonstration.

Hall said she is not a fan of this methodology because of what Chang described. Hall said, "with boring there was the issue of not being able to see beneath the surface so a protocol was developed to allow council to have some control over disturbances that might occur at the subsurface level and with this methodology we (council) have even less control and the level of disturbance is even greater due to the depth which may be plowed." Hall continued to say with boring, technically you're only disturbing the surface where with this plowing tool you're disturbing all 4 feet of the vertical plowed area which is a much wider area of disturbance.

Maxwell asked where is the wider area and if it is like a regular plow to which Wai'ohu explained it is like a regular plow with the hose going between the plow and then it goes straight into the ground, but you can't see anything. To help answer Maxwell's question Chang said the width is about 4 inches. Chang acknowledged that Hall is correct in the sense that the area of disturbance for the plowing method is greater than the method for boring.

Chang said the benefits to using this equipment, is that there's minimal disturbance and cost wise it's a lot cheaper, for example, to bore it cost around a \$180.00 a square foot, to trench it cost around \$100.00, but to plow it cost around \$13.00 a square foot and this helps to considerably decrease the overall cost of construction. Chang said she understands that there is an appropriate usage for the plow and then there's not and this is what the discussion is about.

Kuloloio said he's still debating future or any usage in regards to the methodology of the plow, however what he did notice at the demonstration was that on a scale of 0-5 in regards to observation he rates it a 0, in regards to clarity a 0, in regards to anything that deals with the quality through the eyes of an archaeologist a 0 and a 0 determination in regards to having an archaeologist on site because the demonstration showed that the equipment definitely has a purpose but not the type of purpose he



would recommend for use in a culturally developed or undeveloped area. Kuloloio continued to say the equipment should only be used in areas where it is known and approved by the council that previous disturbances has occurred like in the sugar cane field where the demonstration was done or roadways and certain beaches. Kuloloio said in areas with CCM zones or areas like Hana Highway and Kahului sand dunes, areas that are known to have high concentration of burials, he would never use or recommend the use of this equipment because the blade used on the plow is 4 feet and will caused dramatic disturbance.

Chang said she wants the council to have an open mind towards this technology because it's so efficient however she understands council's concerns about the drawback of not being able to view what is being plowed and the impact on disturbing possible burial remains but she hopes to raise the council's level of comfort in regards to this new technology. Chang said, "and like what we've done in the past with the bore, we developed a protocol, we do a pit before and a pit after, the archaeologist looks at the area, we've identified areas that are appropriate for this use like what we did for the boring, I'd like to come before you with this plow." Chang said she spoke with Lisa who did some test pits prior to going into the area where the demonstration was conducted and she (Lisa) could see the transition of where dirt becomes sand and we strayed away from the sandy area where there is likely to be burials. Chang said she would like to propose being able to use the plow in appropriate areas and would like to discuss what is or would be deemed appropriate areas.

Chang said sensitivity zones were identified in what was classified as low, moderate and high areas of sensitivity. Low being areas where archaeological surveys were done and no burials were found, high was those areas with sandy soil and was known to have burial site with moderate being in between which were areas that didn't have any burial found but had potential to have burials present. Chang said using this matrix as a guide she would like to propose a protocol where in high areas of sensitivity absolutely no plowing would be allowed and to have areas with low sensitivity or where no burials have been found for council to allow plowing. Chang said for the moderate areas she proposes to do what will be called "desktop studies" which is where we would gather as much information about the area through soil therapy which is testing of the soil, also talking to the archaeologist about what the likelihood of what the soil conditions are in the area and some test pits prior to going out to the proposed plowing area but this is unlikely due to time constraints with submitting building applications for permits and bidding on contracts.

Chang said with the proposed protocol for moderate areas would allow plowing to be done but if for some reason when plowing starts or during the duration of plowing or if an archaeologist feels a bad judgment call was made on that area and evidence leads to the conclusion that possible burials are present, then plowing would immediately stop and no longer be done on that area for the time being. Chang continued to say after plowing has ceased we would have an archaeologist do test pits to determine if plowing could continue or not. Chang said she hopes this is a reasonable alternative for protocol on moderate areas in place of doing test pits prior to plowing.

Frampton asked Chang if she was proposing to use the plowing method in areas of low sensitivity and moderate sensitivity to which Chang answered yes. Maxwell said to Chang it's not a matter of agreeing with Sandwich Isle Communications, it's a matter of setting precedence and that the council's job is to try as much as possible to protect the *iwi* that is seen, unseen and unknown. Maxwell said and by doing this we give up our responsibility of having a process where it can be physically looked at and as this continues I would not agree to this at all.

Kuloloio said he thinks the direction of this dialogue must continue before any permitting of use for this new methodology. Kuloloio said we don't have a problem with using new equipment, the problem is when there's no monitoring on site observing what is being done, this then goes against what the purpose of archaeology is. Kuloloio said from his understanding, this presentation is to just make us aware of using this equipment and more on the sensitivity matrix. Kuloloio said the high, medium and low matrix came into existence at the Honokahua burials.

Kirkendall said she has a couple of problems with the methodology, first being when you come into any area where we have recommended monitoring this methodology is not applicable, second in areas where archaeologist are called in for excavation or trenching like on commercial sites or where construction is being done, there is a point where all work will stop when something is recognized by anyone on the site and the law reads all work stops and we are called in to evaluate it. This would also preclude that opportunity from ever occurring because you would never really see what is being done. It appears that no archaeological features would be identified during this process except in fill areas.

Chang wanted to respond and said, "two things, first, we are not intending to replace the archaeologist, the archaeologist's role we have is so vital to this process and would not be possible if not for them, second, the difficulty we are having." Chang stops and said to Maxwell we are really trying to do this the right way and we understand that precedence needs to be set, what we're hoping is coming to you to try and bring forth what the new technologies are. Chang said the county and the state would prefer boring because it's minimal traffic disruption, but what we have done is that we have told the client there are concerns involved with the use of this equipment and before we go out and plow, we need to work with the council to come up with some protocol. Chang said she has worked with the council for 13 years and she would not ask something of them that would jeopardize their position or responsibilities. Chang said, "what we are hoping is that you please consider using these new technologies that are being used elsewhere and we're not suggesting that we would ever use this in areas that would have a likeliness of finding burials." Chang said, "we would like to identify if there are areas that would be appropriate to use this equipment and we felt that after we did the presentation and the demonstration that the county and the state and even the burial members at the demonstration would at least be open to the idea of using this equipment." Chang said this equipment will eventually be used, others are just using it and at least we are coming before the council to try and establish a protocol to use the equipment.

Maxwell said that no one is using this equipment on Maui, to which Chang said they did use a plow on Maui at Haleakala about 10 years ago. Hall wanted to know who's they to which Chang answered Verizon. Maxwell said he isn't sure about that particular usage but because of the processes in place today, he can assure, that the use of this equipment will not happen without our knowledge.

Kuloloio said for an update, the Haleakala summit now has a kupuna group that is part of the section 106 process which now allows for input in what is going on at Haleakala. Kuloloio said it's sad that before things were just done without people knowing, but now this type of thing will be part of our meetings.

Minn said the plow works like a corn planter, but a corn planter only goes down at the most 18 inches, the equipment being proposed goes down 4 feet, the problem is that you can't even plant any corn because the equipment just goes down, digs up the dirt, lays the cable and covers it up before any observation can be done.

Chang said when we plow and as we're going down in an area where we thought was dirt but ends up being sand, we would not plow. Hall said that Chang is making a distinction with the matrix to try and validate using the plow in low sensitivity areas when burials were actually found in all levels of sensitivity and not only sand. Hall said at the demonstration, the plow was being used at a discrete area and even then we (council members) wanted test trenches to be used so we could understand what was going on. But you're coming before us and saying even that amount of foreknowledge would not be available because it would be too complicated or too time consuming or require rights of entry. Hall continued to say that "doing a desktop study is insufficient because there are so many places on Maui where there hasn't been any archaeological work done and or the work that was done may be inadequate by today's standards." Hall said she didn't think as a council they could approve this technology because of how disturbing it is and the fact that there's no control over what the plow may encounter while trenching.

Frampton agrees with what Hall said and suggested to maybe just keep our minds open which its what he believes council does and maybe with trenching and having some kind of knowledge before it starts then he'd feel a little better. Kuloloio said for him, this methodology would have to be brought before the association of archaeologists for evaluation and it would also have to include input by kupunas with experience with archaeologists and for the council to make a decision today about having new technology here in Hawaii.

Chang asked if it is the council's position to not permit use of the technology under any circumstances or would you consider usage if there were test pits done in the area of proposed plowing. Wai'ohu said no due to laws the state made which must be abided to. Maxwell said he really appreciates how Sandwich Isles Communication has come before council time and time again to help work with us, but he seriously thinks that they might clash if usage of this equipment was to be permitted. Maxwell said the majority of the council right now is not in favor of this equipment. Chang said she understands the council's position and thought that the demonstration was done with the intent of being

able to use the equipment on Maui. Hall said that was Sandwich Isles' decision to bring in the equipment, the council never gave them permission to bring in the equipment.

Chang said she does have an obligation to her client to keep pursuing this issue and restated her proposal of doing test pits but the council still did not feel comfortable about permitting usage of the equipment. Frampton said that if test pits were done then at least they would be able to see what's below and better understand what the subsurface consists of to maybe consider permitting plowing. Maxwell mentioned that like Chang has an obligation to her client, the council has an obligation to the *iwi* and before a decision can be made in favor of Chang's proposal, she would have to come back before the council and show proof of figures that would eliminate burial disturbances. It was mentioned that if there's that much saving in cost than essentially half of those savings could be used to pay the archaeologist to go and see if there's burials out in the field.

Chang again acknowledged councils position and said she was being optimistic that council would be in favor of her proposal. Chang reiterated her proposal and wanted to know if the bottom line is that council will not permit this equipment to be used under any circumstances or if there is an opportunity where council would allow use of the equipment for it to be pointed out so that that avenue may be pursued. Council basically said that this is an issue that needs to be further discussed before they can give answer to that question.

(Tape 3, Side B)

Frampton said that "before council can make a determination, it sounds like you're (Chang) going to have to come back with a map, identify the areas that you have considered as proposed areas to be plowed and have information on those identified areas as to how much of it is fill, how much of it is not and that kind of stuff." Chang said "so kind of like what we were proposing with the desktop but bring that information before you" to which the answer was yes. Chang said she was hoping to be able to leave today having set up some form of protocol so she would not have to come before the council every time plowing would be done, but realizes that's out of the question. Hall said that "one of the real problems is that you're (Chang) not proposing any sort of real protocol, you're just (Chang) sort of saying leave it up to us, we're going to go into any areas that have been designated with a low potential and possibly into areas that have a moderate potential and we're going to have an archaeologist there, but we already know that the archaeologist isn't going to see much of anything which practically obviates the need for an archaeologist, so I don't see what protocols you (Chang) are saying is going to be in place." Hall said the desktop studies are inadequate even though they need to be done because it only gives a limited idea of what is in a particular area, especially over the miles that's going to be involved with this project. Hall said council doesn't feel comfortable ceding that amount of discretion to Sandwich Isles regardless of who the archaeologist may be. Hall continued to say that there just is not enough information available about this project to make council feel comfortable enough to be in favor of allowing miles of land to be plowed. Maxwell agreed that this is the bottom line.

Chang said she understands what was expressed but it sounds like to her that although council's initial reaction is to not allow plowing, if Sandwich Isles is able to prove why plowing is appropriate in a particular area then council would consider permitting plowing. Frampton said that would help and Hall said the other thing that would help is, if you elect that course and there will be no guarantees that council would approve to permit plowing, but the other thing that would be a good idea is to consult on the pre-testing of the methodology with Kirkendall and the council to prevent future setbacks. Maxwell said he would propose Kirkendall, Hall and himself to consult with Chang on areas that Sandwich Isles would like to use the plow and then they (Kirkendall, Hall and Maxwell) can consult with the rest of the council.

Chang said she will go back and consult with the client to find out how they would like to pursue this issue.

#### **H. CASE UPDATES/OTHER INADVERTENT DISCOVERIES**

**Information/Recommendation:** Inadvertent burial discovery along shoreline makai of Kana'i Place, Wai'ehu Ahupua'a, Maui; King Kamehameha III Elementary School Monitoring Project, Puako Ahupua'a, Lahaina District, Maui (TMK 4-6-002:013, 014); Hotel Hana Maui Irrigation Installation Project, Hana District, Maui (TMK 1-4-004:002); Inadvertent burial discovery at Kaulahau Burial Site (50-50-05-10640, Hamakuapoko Ahupua'a, Maui (TMK 2-6-09:2, 17, 18, 19).

There was an inadvertent burial discovered at Puakukalo off Kana'i Street. Kirkedall and Hall went to the site to look at the remains and found that the remains were definitely in jeopardy of washing away so it was concluded to remove the burial, which was of a male adult. While removing the remains, two small bones were sighted that ended up being identified as infant remains which looked like newborns that looked to be in very good condition. The infant remains were also removed. There was vertebra, an arm, a leg and a scapula. The remains needed to be screened for dirt and other mixed debris. Hall said the adult remains may have been part of a bundle burial. The long bones were on the outside with the ribs placed on the inside. The skull was in the center and it looked like the vertebra was placed around the skull. Hall said Kana'i Place is right along the shoreline and in 2002 the county had a waterline placement project where Erik Fredericksen a Xamanek archaeologist found multiple burials and a habitation layer on Kana'i Street as well as on other streets right in the area.

In Kalahau there was an inadvertent burial that was removed from the cliff because it was in jeopardy of being washed away. Two other burials were found on the County of Maui Parks and Recreations A & B properties.

Kuloloio said he got call from a guy in Waihe'e Oceanfront who said more *iwi* are coming out of an embankment where Old Round Tables is. Kirkendall said Maui Coastal Land Coast has an archaeologist (Theresa) to take care of this problem.

#### **IV. ANNOUNCEMENTS**

Kuloloio expressed his appreciation to Nathan and Staff for helping Kirkendall with the fumigation of the SHPD's Maui Annex rooms.

**V. ADJOURNMENT**

**Minn moved and Hall second to adjourn the meeting at**

**VOTE: ALL IN FAVOR. The motion carried unanimously.**

Respectfully Submitted,

Kawika Farm  
Stenographer II  
State Historic Preservation Division Maui Annex